



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF APPEALS

2684 AF  
#417 Reply Brief 2684  
3/11/04 2700  
a.s.

Appellant: Kenji YOSHIOKA )  
Serial No: 09/534,441 )  
Filed: March 24, 2000 )  
For: EMERGENCY INFORMING ) Appeal No.  
APPARATUS AND AN )  
EMERGENCY INFORMING )  
SYSTEM )

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REPLY BRIEF

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Technology Center 2600

Sir:

The following is a Reply Brief to the Examiner's Answer dated December 31, 2003.

Addressing the examiner's response whereby the examiner continues to maintain that there is a control processor in the Tendler device for controlling the transmitting of the emergency data and to allow ordinary communication, once more referring to the Background of the Invention and the Summary of the Invention of Tendler, Appellant respectfully submits the following.

The EVLS & dialer modular 20 of Tendler could not be the "controlling means" recited in the being appealed claims, insofar as the EVLS & dialer modular 20 do not "operating said ordinary communication means when said command signal is nonexistent" as set forth in claims 1 and 9, and do not "operate[s] said emergency unit for making an ordinary communication with a desired party when an emergency condition is not detected" as set forth in claims 17 and 23. In other words, the "controlling means" in the being

appealed claims is used to operate both the emergency communication means and the ordinary communication means, depending on whether the command signal exists or not. In contrast, Tendler fails to disclose any "controlling means" that would operate both the emergency communication means and the ordinary communication means, depending on the existence of a command signal.

Addressing the examiner's response to arguments set forth on page 10 of the Appeal Brief [2<sup>nd</sup> full paragraph on page 6 of the Examiner's Answer], Appellant respectfully submits that the argument highlighted by the examiner does indeed relate to a patentable feature that is set forth in claims 1 and 9.

To elaborate, see for example the following clauses recited in both claims 1 and 9: "emergency communicating means for making a call with said called party data and transmitting said emergency data to a called party indicated by said called party data in response to said command signal" and "controlling means for operating said emergency communication means when said command signal is exist and operating said ordinary communication means when said command signal is nonexistent". Note that when the two quoted limiting clauses are taken together, it is clear that the controlling means would operate the emergency communication means when the command signal exists, as the emergency communication means would make the emergency call in response to the command signal, and operate the ordinary communication means when the command signal is nonexistent. In other words, the controlling means does the two above-quoted operating functions automatically subject to the existence of the command signal. Therefore, it is respectfully submitted that the argument set forth on page 10 of the Appeal Brief is clearly not moot.

To repeat, the present invention's control means has a function for operating both of the communication means on either an emergency or ordinary basis, depending on whether the command signal exists or not. Such is not disclosed or suggested at all in Tendler, for Tendler only discloses the cellular phone and fails to disclose or suggest any

control means that would operate both the emergency communication means and the cellular phone, whether the command signal exists or not.

With respect to the examiner's argument about Tognazzini on claim 18, Appellant respectfully submits that the argument proffered on page 12 of the Appeal Brief continues to hold true insofar as the section of Tognazzini that the examiner relies on, i.e. Col. 7, line 32 to Col. 8, line 35, does not teach or suggest a situation where the control unit would disconnect an ordinary call with a desired party when an emergency condition is detected and then operate the emergency communication unit to make an emergency call. Rather, Tognazzini discloses the detection of an incoming call, and the determination of whether the call is an ordinary call or an emergency call. See Col. 8, lines 19-35. See also Figure 2A, operational flow through blocks 130, 132, 134 and 136.

In view of the foregoing, the rejection of claims 1-26 herein on appeal by the examiner is respectfully requested to be reversed.

Respectfully submitted,

  
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